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**LETTER ACCOMPANYING SUBSEQUENTLY FILED ITEMS**

The document(s) listed below is (are) subsequently filed documents pertaining to the following application:

Application number

05710256.8

Applicant's or representative's reference

SR29471 SG

	Description of document	Original file name	Assigned file name
1	Letter relating to the search and examination procedure	SR29471 OEB Further proceeding.pdf	EPLETT-1.pdf

	Fees	Factor applied	Fee schedule	Amount to be paid

	Payment	
1	Mode of payment	Not specified

**Annotations****Statement**

The undersigned hereby declares that the subsequently filed items do NOT contain or are NOT intended to contain any communication relating either to an appeal or to an opposition (OJ EPO 2003, 609: ".....This possibility is not yet available in opposition and appeal proceedings; in such proceedings, therefore, the electronic filing of documents is not admissible.").

**Signatures**

Place: **Toulouse**  
Date: **20.March 2007**  
Signed by: **FR, Brevalex, E. Augarde 8495**  
Capacity: **(Representative)**

BUREAU DE TOULOUSE  
TOULOUSE OFFICE

BREVATOME

Date: 20 March 2007

## EUROPEAN PATENT OFFICE

Erhardtstrasse 27  
80469 MUNCHEN  
ALLEMAGNEO/REF : SR 29471 (EP) / SG

RE : European Patent Application  
 № 05 710 256.8 corresponding to  
 International Patent Application № PCT/JP2005002356

Applicant(s) : Morinaga Milk Industry Co, Ltd.

## ONLINE FILING

FURTHER PROCEEDING  
Due date : 02 May 2007

Dear Sirs,

With reference to your communication dated 02 March 2007 concerning the above-identified European patent application, please be informed that the applicant desires to proceed further with this application.

Very truly yours,

  
 Eric Augarde  
 European Patent Attorney

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Patentamt

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### Acknowledgement of receipt

We hereby acknowledge receipt of the following subsequently filed document(s):

Submission number	213383	
Application number	EP05710256.8	
Date of receipt	20 March 2007	
Receiving office	European Patent Office, The Hague	
Your reference	SR29471 SG	
Applicant		
Number of applicants	0	
Documents submitted	package-data.xml ep-sfd-request.xml	epf1038.pdf (1 p.) EPLETT-1.pdf\SR29471 OEB Further proceeding.pdf (1 p.)
Submitted by	CN=E_Augarde 8495,O=Brevalex,C=FR	
Method of submission	Online	
Timestamp of receipt	20 March 2007, 11:10:07 (CET)	
Digest	52:0F:F0:9BC6:53:9C:6A:62:CB36:20:CC:19:99:06:D2:D4:B8:FA	

/European Patent Office/



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Poulin, Gérard  
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Date  
02.03.07

Reference  
SR 29471 JP/SG

Application No./Patent No.  
05710256.8 - 2405 PCT/JP2005002356

Applicant/Proprietor  
MORINAGA MILK INDUSTRY CO., LTD.

**Proceeding further with the European patent application pursuant to Article 96(1) and Rule 51(1) EPC**

A supplementary European search report has been drawn up concerning the above European patent application (publication number 1717311).

Since you have filed a request for examination prior to the transmission of the supplementary European search report, you are hereby invited to indicate within

**two months**

of notification of this invitation whether you desire to proceed further with the European patent application.

If you do not indicate in due time that you desire to proceed further with the European patent application, it will be deemed to be withdrawn (Art. 96(3) EPC).

If you wish you may comment on the supplementary European search report and amend, where appropriate, the description, claims and drawings (R. 51(1) EPC).

Receiving Section





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Tel.: +31 (0)70 340 45 00

Date

13.02.07

Reference  
SR 29471 JP/SG

Application No./Patent No.  
05710256.8 - 2405 PCT/JP2005002356

Applicant/Proprietor  
MORINAGA MILK INDUSTRY CO., LTD.

## COMMUNICATION

The European Patent Office herewith transmits as an enclosure the supplementary European search report under Article 157(2)(a) EPC for the above-mentioned European patent application.

If applicable, copies of the documents cited in the European search report are attached.

- Additional set(s) of copies of the documents cited in the European search report is (are) enclosed as well.

### Refund of the search fee

If applicable under Article 10 Rules relating to fees, a separate communication from the Receiving Section on the refund of the search fee will be sent later.





European Patent  
Office

SUPPLEMENTARY  
EUROPEAN SEARCH REPORT

Application Number  
EP 05 71 0256

DOCUMENTS CONSIDERED TO BE RELEVANT			CLASSIFICATION OF THE APPLICATION (IPC)
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	
A	WO 93/13676 A (CAMPINA MELKUNIE BV [NL]) 22 July 1993 (1993-07-22) * page 4, lines 4-15 * * page 6, lines 16-28 * -----	1-8	INV. C12N9/04 B01D15/04 B01D61/14 B01J39/04 B01J49/00
A	SHIN KOUICHIROU ET AL: "Purification and quantification of lactoperoxidase in human milk with use of immunoadsorbents with antibodies against recombinant human lactoperoxidase" AMERICAN JOURNAL OF CLINICAL NUTRITION, vol. 73, no. 5, May 2001 (2001-05), pages 984-989, XP002417314 ISSN: 0002-9165 * page 985, right-hand column, paragraph 4 - page 986, left-hand column, paragraph 1 * -----	1-8	
A	EP 0 253 395 A1 (MORINAGA MILK INDUSTRY CO LTD [JP]) 20 January 1988 (1988-01-20) * the whole document *	1-8	TECHNICAL FIELDS SEARCHED (IPC)
			C12N
3	The supplementary search report has been based on the last set of claims valid and available at the start of the search.		
Place of search		Date of completion of the search	Examiner
Munich		30 January 2007	Huber, Angelika
CATEGORY OF CITED DOCUMENTS			
X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document			
T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons & : member of the same patent family, corresponding document			

**ANNEX TO THE EUROPEAN SEARCH REPORT  
ON EUROPEAN PATENT APPLICATION NO.**

EP 05 71 0256

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report.  
The members are as contained in the European Patent Office EDP file on  
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

30-01-2007

Patent document cited in search report		Publication date		Patent family member(s)		Publication date
WO 9313676	A	22-07-1993	AT	129125 T		15-11-1995
			CA	2128111 A1		22-07-1993
			DE	69300674 D1		23-11-1995
			DE	69300674 T2		15-05-1996
			DK	620709 T3		04-12-1995
			EP	0620709 A1		26-10-1994
			ES	2089797 T3		01-10-1996
			FI	943368 A		15-07-1994
			NZ	249235 A		21-12-1995
			US	5596082 A		21-01-1997
<hr/>						
EP 0253395	A1	20-01-1988	CA	1323465 C		19-10-1993
			DE	3774197 D1		05-12-1991
			IE	61701 B1		30-11-1994
			JP	6013560 B		23-02-1994
			JP	63152400 A		24-06-1988
			NZ	221082 A		29-01-1990
			US	4791193 A		13-12-1988
<hr/>						

**PATENT COOPERATION TREATY**  
**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
 (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>PC-9302</b>	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. <b>PCT/JP2005/002356</b>	International filing date (day/month/year) <b>08.02.2005</b>	Priority date (day/month/year) <b>17.02.2004</b>
International Patent Classification (IPC) or national classification and IPC <b>C12N9/04, B01D15/04, 61/14, B01J39/04, 49/00</b>		
Applicant <b>MORINAGA MILK INDUSTRY CO., LTD.</b>		

<ol style="list-style-type: none"> <li>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</li> <li>2. This REPORT consists of a total of <b>4</b> sheets, including this cover sheet.</li> <li>3. This report is also accompanied by ANNEXES, comprising:                     <ol style="list-style-type: none"> <li>a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows:                             <ul style="list-style-type: none"> <li><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> <li><input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____ containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</li> </ul> </li> </ol> </li> </ol>																									
<ol style="list-style-type: none"> <li>4. This report contains indications relating to the following items:                     <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"><input checked="" type="checkbox"/></td> <td style="width: 15%;"><b>Box No. I</b></td> <td style="width: 70%;">Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td><b>Box No. II</b></td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td><b>Box No. III</b></td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td><b>Box No. IV</b></td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><b>Box No. V</b></td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td><b>Box No. VI</b></td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td><b>Box No. VII</b></td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td><b>Box No. VIII</b></td> <td>Certain observations on the international application</td> </tr> </table> </li> </ol>		<input checked="" type="checkbox"/>	<b>Box No. I</b>	Basis of the report	<input type="checkbox"/>	<b>Box No. II</b>	Priority	<input type="checkbox"/>	<b>Box No. III</b>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	<b>Box No. IV</b>	Lack of unity of invention	<input checked="" type="checkbox"/>	<b>Box No. V</b>	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	<b>Box No. VI</b>	Certain documents cited	<input type="checkbox"/>	<b>Box No. VII</b>	Certain defects in the international application	<input type="checkbox"/>	<b>Box No. VIII</b>	Certain observations on the international application
<input checked="" type="checkbox"/>	<b>Box No. I</b>	Basis of the report																							
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<input type="checkbox"/>	<b>Box No. III</b>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability																							
<input type="checkbox"/>	<b>Box No. IV</b>	Lack of unity of invention																							
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<input type="checkbox"/>	<b>Box No. VI</b>	Certain documents cited																							
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<input type="checkbox"/>	<b>Box No. VIII</b>	Certain observations on the international application																							

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/IP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/JP2005/002356

Box No. I Basis of the report
<p>1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p><input type="checkbox"/> This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:</p> <p><input type="checkbox"/> international search (Rule 12.3 and 23.1(b))  <input type="checkbox"/> publication of the international application (Rule 12.4)  <input type="checkbox"/> international preliminary examination (Rule 55.2 and/or 55.3)</p> <p>2. With regard to the elements of the international application, this report is based on (<i>replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report</i>):</p> <p><input checked="" type="checkbox"/> the international application as originally filed/furnished  <input type="checkbox"/> the description:      pages _____ as originally filed/furnished      pages* _____ received by this Authority on _____      pages* _____ received by this Authority on _____</p> <p><input type="checkbox"/> the claims:      nos. _____ as originally filed/furnished      nos.* _____ as amended (together with any statement) under Article 19      nos.* _____ received by this Authority on _____      nos.* _____ received by this Authority on _____</p> <p><input type="checkbox"/> the drawings:      sheets _____ as originally filed/furnished      sheets* _____ received by this Authority on _____      sheets* _____ received by this Authority on _____</p> <p><input type="checkbox"/> a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.</p> <p>3. <input type="checkbox"/> The amendments have resulted in the cancellation of:</p> <p><input type="checkbox"/> the description, pages _____  <input type="checkbox"/> the claims, nos. _____  <input type="checkbox"/> the drawings, sheets/figs _____  <input type="checkbox"/> the sequence listing (<i>specify</i>): _____  <input type="checkbox"/> any table(s) related to sequence listing (<i>specify</i>): _____</p> <p>4. <input type="checkbox"/> This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).</p> <p><input type="checkbox"/> the description, pages _____  <input type="checkbox"/> the claims, nos. _____  <input type="checkbox"/> the drawings, sheets/figs _____  <input type="checkbox"/> the sequence listing (<i>specify</i>): _____  <input type="checkbox"/> any table(s) related to sequence listing (<i>specify</i>): _____</p>

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/JP2005/002356

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
<b>1. Statement</b>		
Novelty (N)	Claims	<u>1-8</u> YES
	Claims	_____ NO
Inventive step (IS)	Claims	_____ YES
	Claims	<u>1-8</u> NO
Industrial applicability (IA)	Claims	<u>1-8</u> YES
	Claims	_____ NO

**2. Citations and explanations (Rule 70.7)**

Document 1: JP 5-202098 A (Snow Brand Milk Products Co., Ltd.), 10 August 1993

The invention set forth in claims 1 to 8 does not involve an inventive step in the light of document 1 cited in the international search report.

Document 1 indicates that it is possible to produce lactoperoxidase by adsorbing milk and related raw materials to a cation exchanger wherein the ion exchange group is a weakly acidic group (e.g., a carboxymethyl group or the like), then washing the cation exchanger and thereafter eluting the lactoperoxidase by means of a solution to which sodium chloride has been added in order to increase the ionic strength of said solution to within a range of 0.2 to 0.5; therein, document 1 also indicates that if necessary, it is possible to obtain lactoperoxidase with a purity of 85% or higher by concentrating the elution solution via an ultrafiltration technique in order to remove impurities therefrom and then drying the filtered product.

Prior to the priority date of the present application, it can be said to have been common knowledge that concentrating an elution solution which comprises a

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/JP2005/002356

Box No. V      Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

target substance and impurities that are less soluble than the target substance via an ultrafiltration technique will cause the impurities to form a precipitate within the solution as the concentration increases.

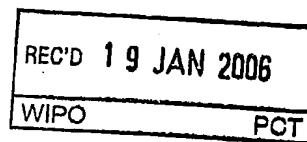
Such being the case, it would have been easy for a person skilled in the art to conceive of increasing the concentration in order to eliminate impurities via sedimentation in the method disclosed in document 1, which is to say a method wherein milk and related raw materials are adsorbed to a cation exchanger with weakly acidic groups, the cation exchanger is washed, the lactoperoxidase is eluted by means of a solution to which sodium chloride has been added in order to increase the ionic strength of the solution to within a range of 0.2 to 0.5, the elution solution is concentrated by means of an ultrafiltration technique in order to eliminate impurities therefrom, and the filtered product is dried.

# 特許協力条約

PCT

特許性に関する国際予備報告（特許協力条約第二章）

(法第12条、法施行規則第56条)  
(PCT36条及びPCT規則70)



出願人又は代理人 の書類記号 PC-9302	今後の手続きについては、様式PCT/IPEA/416を参照すること。	
国際出願番号 PCT/JP2005/002356	国際出願日 (日.月.年) 08.02.2005	優先日 (日.月.年) 17.02.2004
国際特許分類 (IPC) Int.Cl. C12N9/04, B01D15/04, 61/14, B01J39/04, 49/00		
出願人 (氏名又は名称) 森永乳業株式会社		

1. この報告書は、PCT35条に基づきこの国際予備審査機関で作成された国際予備審査報告である。  
法施行規則第57条（PCT36条）の規定に従い送付する。

2. この国際予備審査報告は、この表紙を含めて全部で 3 ページからなる。

3. この報告には次の附属物件も添付されている。

a.  附属書類は全部で                  ページである。

指定されて、この報告の基礎とされた及び／又はこの国際予備審査機関が認めた訂正を含む明細書、請求の範囲及び／又は図面の用紙（PCT規則70.16及び実施細則第607号参照）

第I欄4. 及び補充欄に示したように、出願時における国際出願の開示の範囲を超えた補正を含むものとこの国際予備審査機関が認定した差替え用紙

b.  電子媒体は全部で                  ページである。  
配列表に関する補充欄に示すように、電子形式による配列表又は配列表に関連するテーブルを含む。  
(実施細則第802号参照)

4. この国際予備審査報告は、次の内容を含む。

第I欄 国際予備審査報告の基礎  
 第II欄 優先権  
 第III欄 新規性、進歩性又は産業上の利用可能性についての国際予備審査報告の不作成  
 第IV欄 発明の單一性の欠如  
 第V欄 PCT35条(2)に規定する新規性、進歩性又は産業上の利用可能性についての見解、それを裏付けるための文献及び説明  
 第VI欄 ある種の引用文献  
 第VII欄 国際出願の不備  
 第VIII欄 国際出願に対する意見

国際予備審査の請求書を受理した日 28.07.2005	国際予備審査報告を作成した日 26.12.2005
名称及びあて先 日本国特許庁 (IPEA/JP) 郵便番号 100-8915 東京都千代田区霞が関三丁目4番3号	特許庁審査官 (権限のある職員) 高堀 栄二 電話番号 03-3581-1101 内線 3448
	4B 3540

## 第I欄 報告の基礎

1. 言語に関し、この予備審査報告は以下のものを基礎とした。

- 出願時の言語による国際出願  
 出願時の言語から次の目的のための言語である \_\_\_\_\_ 語に翻訳された、この国際出願の翻訳文  
 国際調査 (PCT規則12.3(a)及び23.1(b))  
 国際公開 (PCT規則12.4(a))  
 国際予備審査 (PCT規則55.2(a)又は55.3(a))

2. この報告は下記の出願書類を基礎とした。(法第6条 (PCT14条) の規定に基づく命令に応答するために提出された差替え用紙は、この報告において「出願時」とし、この報告に添付していない。)

- 出願時の国際出願書類

- 明細書

第 \_\_\_\_\_ ページ、出願時に提出されたもの  
 第 \_\_\_\_\_ ページ\*、\_\_\_\_\_ 付けで国際予備審査機関が受理したもの  
 第 \_\_\_\_\_ ページ\*、\_\_\_\_\_ 付けで国際予備審査機関が受理したもの

- 請求の範囲

第 \_\_\_\_\_ 項、出願時に提出されたもの  
 第 \_\_\_\_\_ 項\*、PCT19条の規定に基づき補正されたもの  
 第 \_\_\_\_\_ 項\*、\_\_\_\_\_ 付けで国際予備審査機関が受理したもの  
 第 \_\_\_\_\_ 項\*、\_\_\_\_\_ 付けで国際予備審査機関が受理したもの

- 図面

第 \_\_\_\_\_ ページ/図、出願時に提出されたもの  
 第 \_\_\_\_\_ ページ/図\*、\_\_\_\_\_ 付けで国際予備審査機関が受理したもの  
 第 \_\_\_\_\_ ページ/図\*、\_\_\_\_\_ 付けで国際予備審査機関が受理したもの

- 配列表又は関連するテーブル

配列表に関する補充欄を参照すること。

3.  補正により、下記の書類が削除された。

<input type="checkbox"/> 明細書	第 _____	ページ
<input type="checkbox"/> 請求の範囲	第 _____	項
<input type="checkbox"/> 図面	第 _____	ページ/図
<input type="checkbox"/> 配列表 (具体的に記載すること)	_____	
<input type="checkbox"/> 配列表に関連するテーブル (具体的に記載すること)	_____	

4.  この報告は、補充欄に示したように、この報告に添付されかつ以下に示した補正が出願時における開示の範囲を超えてされたものと認められるので、その補正がされなかったものとして作成した。(PCT規則70.2(c))

<input type="checkbox"/> 明細書	第 _____	ページ
<input type="checkbox"/> 請求の範囲	第 _____	項
<input type="checkbox"/> 図面	第 _____	ページ/図
<input type="checkbox"/> 配列表 (具体的に記載すること)	_____	
<input type="checkbox"/> 配列表に関連するテーブル (具体的に記載すること)	_____	

\* 4. に該当する場合、その用紙に "superseded" と記入されることがある。

第V欄 新規性、進歩性又は産業上の利用可能性についての法第12条(PCT35条(2))に定める見解、それを裏付ける文献及び説明

## 1. 見解

新規性 (N)	請求の範囲 1-8	有
	請求の範囲 _____	無
進歩性 (I S)	請求の範囲 _____	有
	請求の範囲 1-8	無
産業上の利用可能性 (I A)	請求の範囲 1-8	有
	請求の範囲 _____	無

## 2. 文献及び説明 (PCT規則70.7)

文献1 : JP 5-202098 A (雪印乳業株式会社) 1993.08.10

請求の範囲1-8に係る発明は、国際調査報告で引用された文献1より進歩性を有しない。

文献1には、イオン交換基としてカルボキシメチル基などの弱酸性基を有する陽イオン交換体に乳原料を吸着させ、陽イオン交換体を洗浄した後、食塩等を添加してイオン強度を0.2~0.5とした溶液でラクトパーオキシダーゼを溶出することにより、ラクトパーオキシダーゼが製造できること、また、必要に応じて、不純物を除去する目的でその溶出液を限外濾過法で濃縮した後乾燥させて、純度85%以上のラクトパーオキシダーゼが得られることが記載されている。

また、目的物質の溶出液を限外濾過法で濃縮する際、目的物質と比較して不純物の溶解度が低い場合に、濃縮度を高くすると不純物が溶出液中に沈殿として生成することは、本願優先日前の技術常識といえる。

してみると、乳原料からラクトパーオキシダーゼを精製する目的で、文献1に記載の方法、すなわち、弱酸性基を有する陽イオン交換体に乳原料を吸着させ、陽イオン交換体を洗浄した後、食塩等を添加してイオン強度を0.2~0.5とした溶液でラクトパーオキシダーゼを溶出し、その溶出液を限外濾過法で濃縮して不純物を除去し乾燥するという方法を行うにあたり、濃縮度を高め不純物を沈殿させて除去することは、当業者が容易に想到することである。



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Patentamt

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Patent Office

Office européen  
des brevets

Generaldirektion 1

Directorate General 1

Direction générale 1



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Date

05.10.06

Reference SR 29471 JP/SG	Application No./Patent No. 05710256.8 - 2401 PCT/JP2005002356
Applicant/Proprietor MORINAGA MILK INDUSTRY CO., LTD.	

#### Notification of European publication number and information on the application of Article 67(3) EPC

You are hereby informed that the technical preparations for the publication of the translation of the above-mentioned international application as supplied to the EPO pursuant to Article 158(2) EPC have been completed.

The translation will be published on 02.11.06.

The publication number is: 1717311.

The publication in accordance with Article 158(3) EPC will be mentioned in European Patent Bulletin number 2006/44. ([http://www.european-patent-office.org/e\\_pub/bulletin/index.htm](http://www.european-patent-office.org/e_pub/bulletin/index.htm)).

The title of the invention in the three official languages of the European Patent Office is worded as follows:

VERFAHREN ZUR HERSTELLUNG VON LACTOPEROXIDASE  
PROCESS FOR PRODUCING LACTOPEROXIDASE  
PROCEDE POUR PRODUIRE DE LA LACTOPEROXYDASE

The provisional protection under Article 67(1) and (2) EPC in the individual contracting states becomes effective only when the conditions referred to in Article 67(3) EPC have been fulfilled. For further information, also with respect to extension states, please refer to the EPO brochure "National Law relating to the EPC" (<http://www.european-patent-office/legal/national/index.htm>).

In all future communications to the EPO, please quote the application number as indicated above, i.e. including the final four figures (which identify the Directorate responsible for the subsequent procedure).

#### REMARK:

For European patent applications with a date of publication after 01.04.05, no paper copies will be forwarded to the applicant any longer. The publication can be downloaded, free of charge, from the EPO publication server <https://publications.european-patent-office.org> or can be ordered from the Vienna sub-office upon payment of a fee (see Decision of the President of the EPO dated 22 December 2004, OJ 2005, 124 and Notice from the EPO dated 22 December 2004 concerning the introduction of electronic publication of European patent applications (A-documents) and European patent specifications (B-documents) as well as changes to Rules 51(4), 54 and 108 EPC, OJ EPO 2005, 126).

#### Receiving Section





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Date

28-09-2006

Reference SR 29471 JP/SG	Application No./Patent No. 05710256.8 - 2401 PCT/JP2005002356
Applicant/Proprietor MORINAGA MILK INDUSTRY CO., LTD.	

#### Communication pursuant to Rules 109 and 110 EPC

##### (1) Amendment of application documents, especially the claims (R. 109 EPC)

The above mentioned international (Euro-PCT) application has entered the European phase, or can do so, once the necessary conditions are fulfilled.

Under Articles 28, 41 PCT, Rules 52, 78 PCT and Rule 86(2) to (4) EPC, the applicant may amend the application documents after receiving the international search report.

**Whether or not he has already done so, he now has a further opportunity to file amended claims or other application documents within a non-extendable time limit of one month after notification of the present communication (R. 109 EPC).**

The claims applicable on expiry of the above time limit, i.e. those filed on entry into the European phase or in response to the present communication, will form the basis for the calculation of any claims fee to be paid (see page 2) and for any supplementary search to be carried out under Article 157(2) EPC (R. 109 EPC).

**(2) Claims fees under Rule 110 EPC**

If the application documents on which the European grant procedure is to be based comprise more than ten claims, a claims fee shall be payable for the eleventh and each subsequent claim within the period provided for in Rule 107(1) EPC.

- Based on the application documents currently on file, all necessary claims fees have already been paid (or the documents do not comprise more than 10 claims).
- All necessary fees will be/have been debited automatically according to the automatic debit order.
- The claims fee due for the claims ..... to ..... were not paid within the above-mentioned period.

Any non-paid claims fee, either based on the current set of claims or on any amended claims to be filed pursuant to Rule 109 EPC (see page 1), may still be validly paid within a non-extendable period of grace of one month after notification of this communication.

If a payment is made for only some of the claims, it must be indicated for which claims it is intended. If a claims fee is not paid in due time, the claim concerned is deemed to be abandoned (R. 110(4) EPC).

If claims fees have already been paid, but on expiry of the above-mentioned time limit there is a new set of claims containing fewer fee-incurring claims than previously, the claims fees in excess of those due under Rule 110(2), 2nd sentence, EPC will be refunded (R. 110(3) EPC).

You are reminded that any supplementary search under Article 157(2) EPC will relate only to the last set of claims applicable on expiry of the above time limit AND will be confined to those fee-incurring claims for which fees have been paid in due time.

**The fee for the eleventh and each subsequent claim is EUR 45,00.**

**Receiving Section**



## To the European Patent Office

## Entry into the European phase (EPO as designated or elected Office)

European application number	EP05710256.8
PCT application number	PCT/JP2005/002356
PCT publication number	WO2005078078
Applicant's or representative's reference	SR 29471 JP/SG
<b>1. Applicant</b>	
<p>Particulars of the applicant(s) are contained in the international publication or were recorded by the International Bureau subsequent to the international publication.</p> <p>Changes which have not yet been recorded by the International Bureau are set out here:</p>	
<b>Address for correspondence</b>	
<b>2. Representative 1</b>	
<p>This is the representative who will be listed in the Register of European Patents and to whom notifications will be made</p>	
Name	POULIN Gérard
Registration No	017981.2
Address of place of business	BREVALEX 3, rue du Docteur Lancereaux PARIS, 75008 France 01 53 83 94 00 01 45 63 83 33 brevets.patents@brevalex.com
Telephone	
Fax	
e-mail	
Any additional representative(s) is/are listed here:	
<b>3. General Authorisation:</b>	
<p>An individual authorisation is attached.</p>	
<p>A general authorisation has been registered under No.:</p>	
<p>A general authorisation has been filed, but not yet registered.</p>	
<p>The authorisation filed with the EPO as PCT receiving Office expressly includes the European phase.</p>	
<b>4. Request for examination</b>	
<p>Examination of the application under Art. 94 EPC is hereby requested. The examination fee is being (has been, will be) paid.</p>	
<p>Request for examination in an admissible non-EPO language:</p>	
<b>5. Copies</b>	
<p>One or more additional sets of copies of the documents cited in the supplementary European search report are hereby requested.</p>	
Number of additional sets of copies	1
<b>6. Documents intended for proceedings before the EPO</b>	
<p><b>6.1</b> Proceedings before the EPO as designated Office (PCT I) are to be based on the following documents:</p>	
<p>the application documents published by the International Bureau (with all claims, description and drawings), where applicable with amended claims under Art. 19 PCT unless replaced by the amendments attached.</p>	
<p><i>Where necessary, clarifications should be attached as 'Other Documents'</i></p>	

6.2 Proceedings before the EPO as elected Office (PCT II) are to be based on the following documents:

- the documents on which the international preliminary examination report is based, including any annexes
- unless replaced by the amendments attached.

*Where necessary, clarifications should be attached as 'Other Documents'*

If the EPO as International Preliminary Examining Authority has been supplied with test reports, these may be used as the basis of proceedings before the EPO.

#### 7. Translations

Translations in one of the official languages of the EPO (English, French, German) are attached as crossed below:

- \* *In proceedings before the EPO as designated or elected Office (PCT I + II):*
  - Translation of the international application (description, claims, any text in the drawings) as originally filed, of the abstract as published and of any indication under Rule 13bis.3 and 13bis.4 PCT regarding biological material
  - Translation of the priority application(s)
  - It is hereby declared that the international application as originally filed is a complete translation of the previous application (Rule 38(5) EPC)
- \* *In addition, in proceedings before the EPO as designated Office (PCT I):*
  - Translation of amended claims and any statement under Art. 19 PCT, if the claims as amended are to form the basis for the proceedings before the EPO (see Section 6).
- \* *In addition, in proceedings before the EPO as elected office (PCT II):*
  - Translation of annexes to the international preliminary examination report

#### 8. Biological material

The invention relates to and/or uses biological material deposited under Rule 28 EPC.

The particulars referred to in Rule 28(1)(c) EPC (if not yet known, the depository institution and the identification reference(s)) [number, symbols, etc.] of the depositor are given in the international publication or in the translation submitted under Section 7 on:

- page(s) / line(s)
- A copy of the receipt(s) of deposit issued by the depository institution is attached
- will be filed at a later date
- A waiver of the right to an undertaking from the requester pursuant to Rule 28(3) EPC is attached.

#### 9. Nucleotide and amino acid sequences

The items required under Rules 5.2 and 13ter PCT and Rule 111(3) EPC have already been furnished to the EPO.

The sequence listing as part of the description is attached in PDF format.

The sequence listing does not include matter that goes beyond the content of the application as filed.

In addition, the sequence listing data is attached in computer-readable form in accordance with WIPO Standard 25.

The sequence listing data in computer-readable form in accordance with WIPO Standard 25 is identical to the sequence listing in PDF format.

#### 10. Designation fees

10.1 It is currently intended to pay seven times the amount of the designation fee. The designation fees for all the EPC contracting states designated in the international application are thereby deemed to have been paid (Art. 2 No. 3 RFEes).

AT BE BG CH&LI CY CZ DE DK EE ES FI FR GB GR HU IE IS IT LT LU MC NL PL PT RO SE SI SK TR

10.2 It is currently intended to pay fewer than seven designation fees for the following EPC contracting states designated in the international application:

10.3 It is requested that no communication under Rules 85a(1) or 69(1) need be notified in respect of the contracting states not indicated. If an automatic debit order has been issued, the EPO is authorised, on expiry of the basic period under Article 79(2), to debit

seven times the amount of the designation fee. If less than seven states are indicated, the EPO shall debit designation fees only for those states, unless it is instructed to do otherwise before expiry of the basic period.

#### **11. Extension of the European patent**

This application is also considered as being a request for extension to all the non-contracting states to the EPC designated in the international application with which "extension agreements" were in force on the date of filing the international application. However, the extension only takes effect if the prescribed extension fee is paid.

It is currently intended to pay the extension fee for the following states:



#### **12. List of enclosed documents**

	Description of document	Original file name	Assigned file name
1	Translation of the description as originally filed	SR29471T_nh.pdf	DESCTRAN.pdf
2	Translation of the claims as originally filed	SR29471R.pdf	CLMSTRAN.pdf
3	Translation of abstract as published	SR29471A.pdf	ABSTTRAN.pdf
4	European patent attorneys listing	Europeanpatentattorneyslisting.pdf	OTHER-1.pdf

#### **13. Debit from deposit account**

Currency



EUR

The European Patent Office is hereby authorised, to debit from the deposit account with the EPO any fees and costs indicated on the fees page.

Deposit account number

28040229

Account holder

BREVALEX

#### **14. Reimbursements (if any) should be made to the following EPO deposit account:**

Number and account holder

BREVALEX, 28040229

#### **15. Fees**

		Factor/Reduction applied	Fee schedule	Amount to be paid
15-1	002e Fee for supplementary European search for applications filed before 01.07.2005	0.8	720.00	576.00
15-2	005 Designation fee	7	80.00	560.00
15-3	006e Examination fee (Euro-PCT without supplementary European search report)	1	1 490.00	1 490.00
15-4	020 Basic national fee for an international application	1	95.00	95.00
15-5	055 Additional copy	1	25.00	25.00
Total:			EUR	2 746.00

#### **16. Annotations**

#### **17. Signature(s) of applicant(s) or representative**

Place:

Paris

Date:

27.July 2006

Signed by:

FR, Brevatome, G. Poulin 861

Capacity:

(Representative)